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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,818	12/31/2001	Robert L. Popp	KCC 4771	9058

321 7590 07/28/2004

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER


REICHLE, KARIN M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 10/038,818	Applicant(s) POPP ET AL. 	
	Examiner Karin M. Reichle	Art Unit 3761	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 3 and 19-24.

Claim(s) withdrawn from consideration: _____.

8. ☒ The drawing correction filed on 12 July 2004 is a) ☐ approved or b) ☒ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5-7-04.
10. ☒ Other: With respect to the Figures see the Note section supra.


Karin M. Reichle
Primary Examiner
Art Unit: 3761

Continuation of 2. NOTE: The proposed replacement abstract does not comply with 37 CFR 1.121 because it is not marked up. Also, there is no amendment to the specification, i.e. the section Brief Description of the Drawings, with respect to added Figure 7. Applicants remarks with respect to the prior art have been noted but are deemed nonpersuasive because, contrary to the Applicants arguments, col. 9, lines 26-36 of Hetzler refers to the "laminate" which is the end or final form, see, e.g., claim 12. Nowhere in this passage does it refer to the "laminate" as being the an intermediate form. Furthermore, such arguments are narrower than the teachings of the Hetzler reference because the description of Figure 1, e.g., at col. 7, line 49-col. 8, line 67, especially, lines 9-10, i.e. may be cold stretched, lines 30-33, i.e. may be allowed to relaxed, and 55-56, i.e. the combination "may be" heated, clearly sets forth the film is stretched and then laminated to the support but does not require the combination be annealed. Terminology such as "may be" also infers "may not be". Therefore even if the "laminate" in the col. 9 passage is interpreted to be an intermediate form, contrary to the Applicants arguments, annealing is not required thereafter, i.e. the end form can be elastic. The Sample 1 referred to by Applicants are merely one embodiment of the invention. Note also col. 25, lines 3-8 of Hetzler.